

IN THE COURT OF APPEALS OF TENNESSEE  
AT NASHVILLE  
DECEMBER 6, 2000 Session

**STEFFONE MCCLENDON, FATHER OF DAMIEN O'SHAY MAURICE  
MCCLENDON, THE NEXT OF KIN OF CYNTHIA VANESSA FRANCIS,  
DECEASED v. DR. ELAINE BUNICK**

**Direct Appeal from the Circuit Court for Knox County  
No. 1-606-96; The Honorable Dale C. Workman, Judge**

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**No. E2001-02816-COA-RM-CV  
Filed December 28, 2001**

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**Tenn. R. App. P. 3; Appeal as of Right; Judgment of the Circuit Court Affirmed in Part,  
Reversed in Part and Remanded**

ALAN E. HIGHERS, J., delivered the opinion of the court, in which DAVID R. FARMER, J., and HOLLY KIRBY LILLARD, J., joined.

H. Naill Falls, Jr., James B. Johnson, Nashville, for Appellant

Wynne C. Hall, Summer H. Stevens, Knoxville, for Appellee

**MEMORANDUM OPINION<sup>1</sup>**

This case involves a medical malpractice claim that was dismissed on summary judgment by the trial court. The plaintiff, Steffone McClendon, appealed to this Court, seeking a reversal of the trial court's summary judgment. We affirmed the trial court's decision based on the legislative history and our interpretation of Section 20-1-119 of the Tennessee code. The plaintiff sought a review of this Court's decision with the Tennessee Supreme Court. Although the supreme court refused to hear the case, it remanded the case to this Court for reconsideration in light of Townes v. Sunbeam Oster Co., Inc., 50 S.W. 3d 446 (Tenn. Ct. App. 2001) released this year by the middle

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<sup>1</sup>Rule 10 (Court of Appeals). Memorandum Opinion. – (b) The Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in a subsequent unrelated case.

section of this Court and recently published.

We now adopt the interpretation of Section 20-1-119 of the Tennessee Code given in Townes. Accordingly, we reverse the decision of the trial court and our previous opinion insofar as to allow the plaintiff to add Dr. Elaine Bunick as a defendant and remand this case for trial. Our previous opinion in this matter is affirmed in all other respects. Costs of this appeal are taxed against the defendant, Dr. Elaine Bunick, for which execution may issue if necessary.

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ALAN E. HIGHERS, JUDGE